

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

JOAQUIN I. FOY,	)	
	)	
Petitioner,	)	
v.	)	Civil Action
	)	No. 10-3274-CV-S-ODS-H
MARTY C. ANDERSON, Warden,	)	
United States Medical Center for	)	
Federal Prisoners,	)	
Respondent.	)	

**REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, an inmate confined in the United States Medical Center for Federal Prisoners, petitions this Court for a writ of habeas corpus in which he challenges his confinement. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner has failed to state a valid claim for relief, it will be recommended that he be denied leave to proceed in forma pauperis.

As grounds for relief in habeas corpus, petitioner alleges that his continued commitment is unconstitutional. He appears to assert that his confinement is in violation of his right to a speedy trial; right to life, liberty, property, and the pursuit of happiness; right to be free of police brutality and excessive force in violation of the Eighth Amendment; and denial of reasonable bail. He also asserts that he is entitled to release because he is no longer dangerous and the statute of limitations has run.

A review of the file and records in the case indicates that petitioner was committed to the custody of the Attorney General, pursuant to 18 U.S.C. § 4246, by the United States District Court

for the Western District of Missouri in 1999, and again on September 13, 2007. United States v. Foy, 05-3590-CV-S-RED (W.D. Mo. Sept. 13, 2007). Regardless of petitioner's assertions, the record indicates that he is lawfully confined at the present time for mental health care and treatment pursuant to 18 U.S.C. § 4246, and that the Medical Center has followed proper procedures under the mental health statutes. It should be noted that, according to the last annual report, dated July 14, 2010, mental health staff continue to work on finding a suitable conditional release placement for petitioner, but he has been ambivalent in agreeing to accept a conditional release and agreeing to abide by the conditions of release.

Although petitioner appears to allege that various constitutional rights have been violated, he has failed to set forth any assertions that are understandable in terms of stating a habeas claim for relief before this Court. Even imparting a liberal construction to petitioner's pro se complaint, because petitioner's allegations are not sufficiently specific to state a claim in this case, his petition should be dismissed. Black Spotted Horse v. Else, 767 F.2d 516, 517 (8th Cir. 1985). Accordingly, it must be recommended that the petition herein for writ of habeas corpus be dismissed without prejudice.

Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.<sup>1</sup>

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri,

RECOMMENDED that petitioner be denied leave to proceed in forma pauperis and that the petition herein for a writ of habeas corpus be dismissed without prejudice.

---

1

Petitioner has 14 days to file exceptions to the Report and Recommendation of the United States Magistrate Judge.

/s/ James C. England  
JAMES C. ENGLAND  
United States Magistrate Judge

Date: November 2, 2010